



**Billing Code: 4210-67**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**[Docket No. FR-5913-N-17]**  
**60-Day Notice of Proposed Information Collection: Energy Benchmarking**  
**OMB Control No.: 2502-NEW**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** Comment Due Date: **[insert date that is 60 days following the date of publication of this notice]**.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll- free Federal Relay Service at (800) 877– 8339.

*Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly

encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

*No Facsimile Comments.* Facsimile (fax) comments are not acceptable.

**FOR FURTHER INFORMATION CONTACT:** Stan Houle, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 7th Street, SW, Room 10139, Washington, DC 20410, telephone 202-708-3054. (This is not a toll-free number.) Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### The President's Climate Action Plan

The President's Climate Action Plan calls on Federal agencies to rapidly increase investments in energy productivity, eliminate energy waste, ramp up efficiency standards, and deploy the tools and technology needed to build a new energy economy. The residential building

sector is responsible for fully 21 percent of the nation's greenhouse gas emissions. Utility costs (energy and water) account for around 22 percent of public housing operating budgets and a similar share in the assisted housing sector. HUD spends an estimated \$6.4 billion annually to cover the costs of utilities in its public and assisted housing programs.<sup>1</sup>

HUD is committed to creating energy-efficient, water-efficient, and healthy housing as part of a broader effort to foster the development of inclusive, sustainable, and resilient communities. Investments in energy-efficiency and water-efficiency pay dividends by improving occupant comfort, reducing tenant turnover, stabilizing operating costs, alleviating taxpayer burden, preserving affordable housing, ensuring disaster resilience, and mitigating climate change. As such, the Office of Multifamily Housing Programs in HUD's Office of Housing has taken several steps to encourage greater energy and water efficiency in multifamily housing, including:

- Updating and standardizing the utility allowance methodology for assisted properties that must submit annual documentation of utility allowances (estimated 70 percent of portfolio)<sup>2</sup>; (See Section "Other PRA Collections that Impact this Submission" for more information on how other previously approved PRA collections relate to Energy Benchmarking.
- Offering incentives to multifamily owners and management agents who have joined the Better Buildings Challenge, set a goal of reducing energy and/or water use by 20 percent

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<sup>1</sup> See [https://portal.hud.gov/hudportal/documents/huddoc?id=afry13\\_egyeff.pdf](https://portal.hud.gov/hudportal/documents/huddoc?id=afry13_egyeff.pdf).

<sup>2</sup> See <http://portal.hud.gov/hudportal/documents/huddoc?id=15-04hsgn.pdf>

within 10 years, and established themselves as leaders in the field with respect to energy and/or water efficiency;<sup>3</sup>

- Providing access to capital to make energy improvements by implementing changes to the Federal Housing Administration’s (FHA) underwriting standards in the Multifamily Accelerated Processing Guide (MAP Guide) to allow greater loan proceeds from standard offerings, supporting products such as the Fannie Mae Green Preservation Plus loan, and affirming how owners may use reserve for replacement funds to make energy and/or water improvements;<sup>4</sup> (See Section “Other PRA Collections that Impact this Submission” for more information on how other previously approved PRA collections relate to Energy Benchmarking.)
- Lowering annual multifamily mortgage insurance premiums for energy-efficient properties (those committed to achieving an industry-recognized green building standard and to maintaining energy performance in the top 25 percent of multifamily buildings nationwide);
- Developing and implementing a standardized Capital Needs Assessment suite of online tools (CNA e-Tool) available (later in 2016) for free to assist borrowers with submitting standard information to HUD, the U.S. Department of Agriculture, and others;<sup>5</sup>
- Developing a “pay for success” demonstration program under which the Department will execute budget-neutral, performance-based agreements that result in a reduction in

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<sup>3</sup> See <https://www4.eere.energy.gov/challenge/home>.

<sup>4</sup> See <http://www.fanniemae.com/portal/about-us/media/corporate-news/2014/6117.html>.

<sup>5</sup> See Form HUD-9001a-ORCF at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/forms/hud9](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud9).

energy or water costs. Recent legislation authorized HUD to implement this pilot from FY 2016 to FY 2019 in up to 20,000 units of multifamily buildings participating in the PBRA, Sec. 202 and Sec. 811 programs; and

- Publishing guidance on utilizing Property Assessed Clean Energy (PACE) financing with HUD -assisted and FHA-insured properties.

#### Accounting for Energy and Water Usage

While HUD has a vested interest in eliminating energy and water waste in the assisted housing stock and stabilizing operating costs in both the insured and assisted housing stocks, to ensure that taxpayer investments in multifamily housing are viable for the long-term, the Office of Multifamily Housing Programs is currently unable to effectively analyze the energy and water use patterns, improvement potential, and investment needs of properties in the assisted and insured portfolios.

In 2003 and 2008, the Harvard Graduate School of Design<sup>6</sup> and the Government Accountability Office<sup>7</sup>, respectively, strongly recommended that HUD require the practice of utility benchmarking across its housing portfolios. Utility benchmarking involves tracking the utility consumption of a development on an on-going basis, calculating the energy and water efficiency of the development, and comparing its efficiency to similar developments. It is a valuable tool in the strategic management of building portfolios. As such, a growing number of municipal and state governments across the country are instituting utility benchmarking

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<sup>6</sup> See [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_9238.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9238.pdf)

<sup>7</sup> See <http://www.gao.gov/products/GAO-09-46>

requirements across the country in order that government policymakers, funding providers, and building owners alike can make data-driven decisions.

Though obstacles remain, utility benchmarking is rapidly becoming quicker, easier, more automated, and more integrated as it becomes an industry-standard best practice. In September 2014, the U.S. Environmental Protection Agency (EPA) developed a new feature for its free, web-based tool called ENERGY STAR Portfolio Manager, which allows users to calculate an energy-efficiency rating or “benchmarking score” for most multifamily developments.

Benchmarking scores developed through ENERGY STAR Portfolio Manager are officially known as ENERGY STAR Scores. These scores are available for multifamily housing properties of 20 units or more. A score of 50 indicates energy performance consistent with the national median, while 100 represents a top performer, and a score of at least 75 may make buildings eligible for ENERGY STAR certification.<sup>8</sup> The EPA will release a similar benchmark score for water usage in approximately a year. With these advancements, building owners across the country now have access to a free tool for utility benchmarking that can be used without the need to hire a building professional.

### A Deeper Look at Utility Benchmarking

Utility benchmarking helps building owners to understand their buildings’ energy and water performance, allowing them to detect malfunctioning equipment and billing errors, prioritize operational and capital improvements, verify the return on those investments, and plan

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<sup>8</sup> See <http://www.energystar.gov/buildings/facility-owners-and-managers/existing-buildings/use-portfolio-manager>. See also former HUD Secretary Shaun Donovan’s July 17, 2014, letter to Property Owners and Operators participating in HUD programs encouraging the use of EPA’s ENERGY STAR Portfolio Manager at <http://portal.hud.gov/hudportal/documents/huddoc?id=SOHUDSignedLetterPHAsMFH.pdf>.

future budget needs. Indeed, the practice of utility benchmarking leads to significant improvements in building performance. Based on analysis of more than 35,000 buildings covered by newly established local energy benchmarking laws, EPA found an average energy use reduction of seven percent between 2008 and 2011.<sup>9</sup>

In addition to the direct benefits to building owners, the sharing of utility benchmarking data allows government policymakers and funding providers (in this case, HUD acts as both) to account for utility expenditures, plan future budget needs, develop efficiency incentive programs, offer targeted technical assistance, and verify the return on these investments. For over 30 years, HUD has been promoting energy- and water-efficiency work in the public and assisted housing stocks through financial incentives, technical assistance, and pledge programs. However, utility benchmarking and data sharing will allow HUD for the first time to use robust information to direct those financial incentives, technical assistance, and pledge programs to the areas of greatest need, opportunity, and success.

Utility consumption and cost tracking by a building owner is the first step of utility benchmarking, and multiple approaches to this are available. The most direct method is to request whole-building utility data directly from the utility provider(s), covering the sum of owner-paid and tenant-paid accounts. When that is not possible, building owners may collect utility data for owner-paid accounts simply by compiling the information from their electronic or paper utility bills into a spreadsheet or web-based tool like ENERGY STAR Portfolio Manager. Some utility providers offer easy downloads of this information directly from their websites.

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<sup>9</sup> See [http://www.energystar.gov/sites/default/files/buildings/tools/DataTrends\\_Savings\\_20121002.pdf](http://www.energystar.gov/sites/default/files/buildings/tools/DataTrends_Savings_20121002.pdf).

Building owners may then collect utility data for tenant-paid accounts either by requesting the information directly from tenants in accordance with existing lease provisions, or, in some cases, by submitting individual tenant-data release forms to the utility provider. Once received, this utility data should be added to the spreadsheet or web-based tool to offer a complete picture of the whole-building utility consumption and cost. If using ENERGY STAR Portfolio Manager, (OMB 2060-0347) the software will then automatically calculate a variety of useful metrics, such as the Site and Source Energy Use Intensity (EUI), Site Water Use Intensity (WUI), ENERGY STAR Score for Energy, and ENERGY STAR Score for Water. With this information, building owners are empowered to make more strategic decisions.

Cities across the country have enacted utility benchmarking and data sharing ordinances that ask commercial and multifamily building owners to track and disclose energy and/or water usage. Each program has unique building size requirements and different disclosure procedures.

At this time and with this notice, HUD is proposing limited requirements for utility benchmarking and data sharing, in order to balance the need to institute contemporary best practices and strategically manage the housing portfolio with the burden presented to building owners of adopting a new reporting requirement. Whereas an increasing number of state and local laws require utility benchmarking on an annual basis, HUD is proposing “spot-check” utility benchmarking on a less frequent basis. And whereas state and local benchmarking laws generally require utility benchmarking based on whole-building data, HUD intends to accept metrics developed with sampled tenant-paid utility data when whole building data are not available. Together, this will allow building owners to begin practicing utility benchmarking while the market continues to build support for more integration and automation of this best practice.



Over time, the Department will use the scores, along with EUI and WUI metrics, to see if energy and water efficiency is increasing, decreasing, or staying the same in the multifamily portfolio. The Office of Multifamily Housing Programs will use the information to assess energy and/or water efficiency needs and opportunities in the portfolio. Benchmarking data may also be used to inform the development of new policy initiatives, financial incentives, technical assistance, and pledge programs. Energy benchmarking will become more valuable over time as multiple years of energy consumption data are available.

## **II. Proposed Information Collection**

To build a foundation of awareness and data concerning the current building performance of the multifamily building stock, as well as to guide and spur energy- and water-efficiency investments in multifamily housing, HUD proposes, through this notice, to require owners of covered property types to provide HUD's Office of Multifamily Housing Programs with the following metrics for each property when completing several types of property transactions: Site and Source Energy Use Intensities (EUI), Site Water Use Intensity (WUI), and the ENERGY STAR Score for Energy, and – when available from EPA – the Energy Star Score for Water. The Portfolio Manager software calculates and reports these metrics in a standardized format. The Energy Star Score for Water is currently pending release by EPA, and so it will not be required until it is available. HUD will provide at least 90 days advance notice before a requirement to submit water efficiency data goes into effect.

Site EUI represents a property's energy use per square foot of gross floor area, expressed in thousand British thermal units per square foot (kBtu/ft<sup>2</sup>), a standardized measure of thermal power consumption regardless of fuel source. Source EUI includes an adjustment to reflect how

the energy was produced and transmitted, and this metric is calculated by Energy Star Portfolio Manager and used as the basis for the Energy Star Score for Energy. Site WUI represents a property's water use per square foot of gross floor area, expressed in gallons per square foot (gal/ft<sup>2</sup>). The Energy Star Score for Energy and Water each serve as a ranking of a property's Source EUI and Site WUI, respectively, compared to similar properties.

There are a few exceptions to the stated information collection requirements. Only properties that have been in existence for at least 12 months and that include 20 housing units or more are eligible to receive an Energy Star Score for Energy or Water, and so these two metrics will not be required for ineligible properties. Properties with less than 20 units are encouraged to submit EUI and WUI data, but will not be required to submit this analysis to HUD.

Additionally, for the purposes of this basic information collection effort, the Office of Multifamily Housing Programs will accept metrics calculated using either whole building data or a combination of whole owner-paid utility data and sampled tenant-paid utility data. It is important to understand, however, that metrics calculated with less than whole building data are not accepted by EPA for the purposes of Energy Star certification. If choosing to use sampled tenant-paid utility data, owners must meet or exceed the standards outlined in this document.

Finally, for the Department's purposes, the required metrics will be considered valid for three years beyond the 12-month period upon which they are based. For example, an ENERGY STAR Score based on 2015 calendar-year utility data and generated in 2016 will be accepted by HUD for any required reporting under this notice in 2016, 2017, and 2018. An ENERGY STAR Score based on 2013 calendar-year data and generated in 2016 will be accepted by HUD for any required reporting under this notice in 2016, but not in 2017. At this point, the owner would

need to provide more recent data. The frequency is intended to align benchmarking with information collection efforts undertaken by HUD-assisted properties in preparing their utility allowance.

Covered property types include:

- Section 202 Project Rental Assistance Contracts (PRAC),<sup>10</sup>
- Section 811 PRAC and Project Rental Assistance (PRA) contracts,<sup>11</sup>
- Section 8 Housing Assistance Payment (HAP) contracts,<sup>12</sup>
- Multifamily Housing properties insured under Sections 223(a)(7), 223(f), 221(d)(4), 220, 230, and 241(a).<sup>13</sup>

Owners of covered properties are encouraged to voluntarily submit water and energy benchmarking data to HUD on an annual basis. HUD will require that owners submit benchmarking information on the following schedule, subject to revision:

- For HUD assisted properties with a utility allowance, at the time of a triennial utility allowance baseline calculation;

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<sup>10</sup> Under HUD’s regulations for the Section 202 and Section 811 programs at 24 CFR 891.400(d)(2) Owners are required to submit “statements regarding project operation, financial conditions and occupancy as HUD may require to administer the PRAC and to monitor project operations

<sup>11</sup> Id.

<sup>12</sup> Under HUD’s Section 8 Project-Based Rental Assistance (PBRA) program, owners must submit an analysis of the project’s utility allowances in connection with annual rent adjustments and “...provide to HUD on an annual basis, such financial information as required by HUD...”. See HUD regulations at 24 CFR 880.610, (applied to parts 881 and 883 by cross-reference), 24 CFR 884.220, 24 CFR 886.126, 24 CFR 891.645, and 24 CFR Part 5 Subpart H.

<sup>13</sup> Under HUD’s regulations at 24 CFR 200.78, insured properties “shall provide cost effective energy conservation in accordance with requirements established by” HUD.

- For HUD-assisted properties where there is no utility allowance, every third year at the time of financial statement submission;
- Prior to issuance of new FHA mortgage insurance under Sections 223(a)(7), 223(f), and 241(a));
- With a Capital Needs Assessment submission required by the Office of Asset Management and Portfolio Oversight in HUD's Office of Multifamily Housing Programs on a 10-year cycle;
- With a Capital Needs Assessment submission required as part of any enforcement action.

HUD is seeking feedback on the required submission points and will finalize the schedule with the issuance of an Office of Housing Notice.

#### Required Format

As noted above, owners seeking a covered property transaction will be required to enter data into ENERGY STAR Portfolio Manager and submit to HUD the referenced metrics created by the free web tool. ENERGY STAR Portfolio Manager has the ability to automatically generate reports from user data and offers a variety of standard formats. HUD will use an existing standard, machine readable report format within Portfolio Manager for HUD owners to utilize in preparing its benchmarking submission. The format may be modified over time but content will remain consistent with the scope of this Notice. In addition to submission of data in the specified format, owners may be asked to “share” their benchmarking report with the HUD account in Portfolio Manager to allow the Department to centrally access data.

#### Requirements for Underlying Utility Data

Use of whole building data, including owner-paid utilities, plus all tenant paid utilities (even if aggregated), is preferable when completing utility benchmarking analysis, as it will give the most accurate snapshot of a building's performance. However, to calculate the referenced metrics in Portfolio Manager, some owners may need to or choose to use a combination of whole owner-paid utility data and a sample of tenant-paid utility data as an alternative to using all of the above. Please be reminded that metrics calculated with less than whole building data are not accepted by EPA for the purposes of ENERGY STAR certification. If choosing to use sampled tenant-paid utility data, owners must meet or exceed the minimum sampling standards associated with existing Office of Multifamily Housing utility data reporting requirements (see table of related PRA collections below). Accepting the sampling already in use by anticipated respondents will significantly minimize the additional administrative burden benchmarking requirements imposes on those respondents.

When completed in conjunction with a HUD utility allowance baseline analysis, the benchmarking analysis should generally include (or exceed) the number of units sampled for the utility allowance (see Notice H 2015-14<sup>14</sup>). In other instances, the Department will accept analysis using sampled tenant data that meets or exceeds the lighter sampling protocol adopted by the Department of Energy's Better Buildings Challenge (BBC)<sup>15</sup>. HUD may establish a different standard for submittals associated with Capital Needs Assessments (CNA) or green building financing programs. In all cases, owners are encouraged to collect as much utility data as possible and to sample from a variety of housing unit sizes and types within each development

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<sup>14</sup> <https://portal.hud.gov/hudportal/documents/huddoc?id=15-04hsgn.pdf>

<sup>15</sup> See Appendix C of the BBC Data Tracking Manual.

in order to improve the accuracy and usefulness of the resultant metrics. Owners must certify that the submitted Portfolio Manager data meets or exceeds the required minimum sample.

HUD will consider requests for additional time to submit benchmarking data from owners who experience unexpected delays in obtaining sufficient sample data from utility providers or encounter unforeseeable technical difficulties.

#### Other PRA Collections that Impact this Submission

The Department has identified seven discrete tasks associated with the process for obtaining and submitting Portfolio Manager scores, which are listed in the matrix below. Based on a review of other Paperwork Reduction Act submissions, the Department believes that the PRA requirements for seven of those eight tasks are addressed in other submissions, also identified in the matrix below. Burden hours calculated for the proposed Information Collection reflect only the time associated with generating a report in Portfolio Manager and submission to HUD. While the Department recognizes that respondents may spend significant time on preparatory activities in order to submit the data requested under this collection, the burden hours for those tasks are already accounted for under other approved collections.

	Relevant PRA Information Collections					
	Energy Star collection) (OMB-2060-0347)	eCNA collection (OMB-2502-0505)	TRACS collection (Utility allowance component) (OMB-2502-0204)	Multifamily Project Applications Green Building Program component (OMB-2502-0029)	HUD's Multifamily Housing Utility Allowance submission (OMB 2502-0352)	Benchmarking (New Collection)
<b>Tasks Leading to Fulfillment of Requirement:</b>						

Tenants submit utility data to owners		X	X		X	
Tenants provide release for owner to request data from utility		X	X		X	
Utilities compile and share data with owners	X	*	*		*	
Owners compile/prepare tenant-paid utility data	X	*	*		*	
Owners compile/prepare owner-paid utility data	X	*		X		
Owners enter data into Portfolio Manager	X	*	*			
<b>Direct Requirement Being Proposed</b>						
Owners generate Portfolio Manager Report and submit to HUD						X

\*In conjunction with FHA financing and Utility Allowance processes, a portion of owners are currently compiling utility consumption data and utilizing Portfolio Manager.

### Effective Date

The utility benchmarking requirement described in this notice will apply when executing any covered transaction beginning 90 days after OMB approval of the PRA request, and not sooner than January 1, 2017. The first scheduled submission date for a majority of assisted-housing respondents is estimated to occur in 2019. HUD will alert owners of the effective date

for reporting requirements through an Office of Housing Notice, issued after OMB issues a Notice of Action approving this PRA collection.

### **III. Information Collection Burden and Solicitation of Comment**

#### **A. Overview of Information Collection**

Title of Information Collection: Multifamily Housing Energy Benchmarking

OMB Approval Number: New proposed collection.

Type of Request: New proposed collection.

Form Number: N/A.

Description of the need for the information and proposed use: Please see Section II of this notice.

Respondents: Multifamily owners, managing agents and tenants.

Estimated Number of Respondents: 17,049

Average Hours per Response: .50

Total Estimated Burden Hours: 8,524.5

Burden hours take into account other existing information collections covering the assembly of utility information by impacted properties and the use of ENERGY STAR Portfolio Manager, these include: HUD's Multifamily Housing Utility Allowance submission (OMB 2502-0352), HUD's Tenant Eligibility and Rent Procedures (OMB 2502-0204), CNAe requirements (OMB 2502-0505), HUD's Multifamily Project Applications Green Building Program component (OMB-2502-0029) and ENERGY STAR Certification (OMB- 2060-0347) by the Environmental Protection Agency.

#### **B. Solicitation of Public Comment**



This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Date:** August 3, 2016

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Janet M. Golrick  
Associate General Deputy Assistant Secretary for Housing-  
Associate Deputy Federal Housing Commissioner

**[Docket No. FR-5913-N-17]**

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